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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,838

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Nathan Boyd

148/432US

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12/30/2008

ADAMS INTELLECTUAL PROPERTY LAW, P.A.

Suite 2350 Charlotte Plaza

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EXAMINER

FRANK, RODNEY T

ART UNIT

PAPER NUMBER

2856

MAIL DATE

DELIVERY MODE

12/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,838	Applicant(s) BOYD, NATHAN	
	Examiner RODNEY T. FRANK	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7,8 and 15-22 is/are rejected.
- 7) ☒ Claim(s) 3,5,6 and 9-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/15/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 19 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: a structure that is a fluid mains.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 15, 16 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Hara et al. (U.S. Patent Number 3,619,072; hereinafter referred to as O'Hara). O'Hara discloses an automated infrared analysis apparatus having an improved sample cell which has grooves therein for quicker purging of a sample, a chart drive mechanism which quickly skips over predetermined portions of the infrared

Art Unit: 2856

spectrum and a programmable reference cell holder. The infrared characteristics of an oil sample or the like can be determined at the rate of approximately one sample every 31/2 minutes (Please see the abstract).

6. With respect to claim 1, O'Hara discloses and illustrates in figures 3, and 4a-4c a fluid monitoring apparatus for monitoring a fluid in a fluid mains supply, the apparatus comprising means for connecting the apparatus to the mains supply (29), a testing chamber (32), a fluid tester for testing a variable of a fluid in the testing chamber (33) and a purger (27) for purging a volume of fluid from the testing chamber which volume of fluid is substantially larger than the volume of the testing chamber, thereby replacing the fluid in the testing chamber with a new fluid volume.

With respect to claim 4, O'Hara discloses a fluid monitoring apparatus, in which the apparatus comprises a purge controller (26) for controlling the purger to determine the volume to be purged.

With respect to claim 15, a fluid monitoring apparatus in which the apparatus comprises a power cell, as shown in figure 3 (22).

With respect to claim 16, the fluid is disclosed to be oil, which is a liquid.

With respect to claim 22,

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 7, 8, 12, 17, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara.

With respect to claim 2, while it is not explicitly disclosed that the device is coupled to a hydrant, O'Hara discloses the use of a table and dropper in order to get a sample for test. The device is attached to some source and the terminology of adapted is very vague. Therefore, it would be obvious to one of ordinary skill in the art to adapt the device to attach to a sensor as adapting to a sample table is just as simple as adapting to a hydrant or another source.

With respect to claim 7, while the purge controller is not explicitly disclose to comprise a microprocessor, since the controller is disclosed to perform multiple functions, than it would be obvious to one of ordinary skill in the art at the time of the invention to utilize a microprocessor in order to manage the various tasks of the controller.

With respect to claim 8, the timing of the system is described such that all the fluid can be purged from the system and the system refilled in column 6 lines 44 through 66.

With respect to claim 12, while it is not explicitly disclosed where the fluid is purged, the fluid is shown to exit as waste via the pump. Since the location of the purged fluid is not disclosed to be consequential, it would be obvious to one of ordinary skill in the art to simply purge the fluid to atmosphere as that is the fastest place to discharge the fluid.

Art Unit: 2856

With respect to claims 17, 18, and 20, and 21 while the device is disclosed to operate with oil, since oil is a fluid, then the device would be capable of operating with other fluids, such as water.

Allowable Subject Matter

9. Claims 3, 5, 6, and 9-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RODNEY T. FRANK whose telephone number is (571)272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. T. F./

Examiner, Art Unit 2856

December 31, 2008

/Hezron Williams/

Supervisory Patent Examiner, Art Unit 2856